



Alabama Department of Environmental Management
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1400 Coliseum Blvd. 36110-2400 ■ Post Office Box 301463
Montgomery, Alabama 36130-1463
(334) 271-7700 ■ FAX (334) 271-7950

October 15, 2012

CERTIFIED MAIL #91 7108 2133 3936 5816 2781

Mr. Peter Kipin
President
Kipin Industries, Inc.
4194 Green Garden Road
Aliquippa, PA 15001

Dear Mr. Kipin:

Subject: **Notice of Violation**
Kipin Industries, Inc. – Birmingham Field Office (KII)
900 Railroad Avenue, Tarrant, Jefferson County, 35217
USEPA Identification Number ALR000053330

On September 18-19, 2012, representatives of the U. S. Environmental Protection Agency (EPA) and a representative of the Alabama Department of Environmental Management (Department) conducted an investigation including an inspection of the KII operations at ABC Coke in Tarrant, Alabama. The purpose of the inspection was to determine KII's compliance with the applicable requirements of ADEM Administrative Code Division 14.

As a result of the inspection, the Department has determined that the following violation was observed at the time of the inspection; please refer to the specific rules summarized below for additional information regarding each requirement:

Pursuant to ADEM Admin. Code rs. 335-14-5-.03(2) and 335-14-6-.03(2), facilities must be designed, constructed, maintained, and operated to minimize the possibility of a fire, explosion, or any unplanned sudden or non-sudden release of hazardous waste or hazardous waste constituents to air, soil, groundwater, or surface water which could threaten human health or the environment. ADEM Admin. Code r. 335-14-2-.01 (4)(a)10. specifically excludes from the definition of solid waste coke by-product wastes (EPA Hazardous Waste Numbers K060, K087, K141, K142, K143, K144, K145, K147, and K148) and any wastes from the coke by-products processes that are hazardous only because they exhibit the Toxicity Characteristic specified in Rule 335-14-2-.03(5), when, subsequent to generation, these materials are recycled to coke ovens, to the tar recovery process as a feedstock to produce coal tar or are mixed with coal tar prior to the tar's sale or refining. This exclusion is conditioned on there being no land disposal of the wastes from the point they are generated to the point they are recycled to coke ovens or tar recovery or refining processes, or mixed with coal tar.



KII failed to maintain properly the containment system for the KII Process Area to minimize the possibility of a release of hazardous waste to the environment. At the time of the inspection, representatives of the Department and the EPA observed that the base of the containment area was covered partly by rainwater, which was in contact with the coke by-product materials that were stored in the area and that there was a gap at the outer edge of the entrance/exit ramp to KII Process Area. In addition, they observed a steady stream of rainwater containing coke by-product material flowing out of the containment area through the gap onto the ground. Subsequent to the discovery of the release, a KII employee closed the gap with nearby soil but did not attempt to clean up the released material. By allowing rainwater containing coke by-product material to be placed onto the ground, KII failed to adhere to a condition that excluded the released material from the definition of solid waste, thereby subjecting that material to regulation under Alabama's Hazardous Waste Program statute and rules.

KII should submit documentation to indicate that the above violation has been corrected within **thirty days** of receipt of this letter. This Notice of Violation is intended to identify a violation of the Department's environmental regulatory program. The violation should be corrected within the time frame set above.

Since the violation appears to be significant, the Department is considering the option to take further action, including imposition of monetary penalties for the noted violations.

If you have any questions regarding this matter, please contact James Burgess at 334-271-7993 or by e-mail at jkb@adem.state.al.us.

Sincerely,



Phillip D. Davis, Chief
Land Division

PPD/JKB/qv

cc (via email): César Zapata, US EPA Region 4
Paula Whiting, US EPA Region 4

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